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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,285	08/24/2001	Philip W. Kithil	41113-US-11	3542

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EXAMINER

TO, TOAN C

ART UNIT PAPER NUMBER

3616

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/914,285

Applicant(s)

KITHIL, PHILIP W.

Examiner

Toan C To

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 11-31 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- a. Group I, claims 11-19, 21-24 and 28-30 are drawn to a sensor is classified in classes 340.
  - b. Group II, claims 20, 25, 26-27, and 31 is drawn to a method of compensating and configuring sensor and detecting head motion is classified in classes 307 and 280.
2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical features of group I include transparency product, and electrodes. In contrast, the special technical features of Group II include method steps of determining low frequency shifts due to temperature effects, attaching a printed circuit board to a deleted portion of the monolithic ground.
3. Further, the invention of Group I contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention

because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- a. Species A: figures 1-6A-C, claims 11-19
- b. Species B: figure 7-10; claims 21-24
- c. Species C: figures 17; claims 28-30

If Group I is elected, applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a). Currently, there is no generic claim as to the above species.

4. Further, the invention of Group II contains claims directed to more than one Sub-group which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

**Sub-group I**, claim 20 is drawn to a method of compensating the long-term effects of temperature is classified in class 73.

**Sub-group II**, claim 25 is drawn to a method of configuring a capacitive sensor is classified in class 307

**Sub-group III**, claims 26-27 and 31 is drawn to a method of detecting occupant head motion is classified in class 280.

The inventions listed as **Sub-groups I, II and III** do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical features of **Sub-group I** include method steps of determining low frequency shifts due to temperature effects. In contrast, the special technical features of **Sub-group II** includes method steps of attaching a printed circuit board and connecting the reference sensor to electronic part on the printed circuit board, and the **Sub-group III** includes method of customizing the sleep detector and identifying the operator of the vehicle.

If Group II is elected, applicant is required, in reply to this action, to elect a Sub-group to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected Sub-group, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan To whose telephone number is (703) 306-5951. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson, can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2571.

Any inquiry of a general nature or relating to the status of this application or this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

To, T

April 20, 2003

 4/21/03  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600